

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA GREENVILLE DIVISION

DANIEL A. SHANNON, Plaintiff,	§ §
ramun,	§
vs.	§ CIVIL ACTION NO. 6:12-2938-MGL-KFM
SOUTH CAROLINA DEPARTMENT OF	§ §
CORRECTIONS;	§
SCDC DIRECTOR WILLIAM BYARS;	§
JOHN OZMINT, Former Director of SCDC;	§
ROBERT WARD, Division Director	§
of Operations;	§
DAVID MCCALL, Former Warden Perry	§
Correctional Institution Warden Lee	§
Correctional Institution;	§
DANIEL MURPHY, Former Inspector	§
General for SCDC;	§
ELBERT PEARSON, SCDC Security Threat	§
Group:	§
JANNITA GASTON, Chair of the Maximum	§
Security Unit Committee;	§
DENNIS PATTERSON, Member of	§
Committee on July 14, 2009;	§
DEDRIC WILLIAMS, Member of	§
Committee on July 14, 2009:	§
COLIE RUSHTON, Member of	§
Committee on July 14, 2009;	§
AARON JOYNER, Member of	§
Committee on July 14, 2009:	§
BERNARD MCKIE, Warden of Kirkland	§
Correctional Institution;	§
YVONNE LOFTON, Former Classification	§
Caseworker for Maximum Security Unit:	§
CAPTAIN VAUGHN JACKSON, Major for	§
Maximum Security Unit:	§
JOHN DOES; and	§
JANE DOES,	§
Defendants.	§

ORDER ADOPTING THE REPORT AND RECOMMENDATION, GRANTING DEFENDANTS' MOTION TO DISMISS FOR FAILURE TO PROSECUTE, AND DENYING AS MOOT BOTH DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendants' motion to dismiss for failure to prosecute be granted and both Defendants' motion for summary judgment and Plaintiff's motion for partial summary judgment be denied as moot. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on January 8, 2015, but Plaintiff failed to file any objections. "[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that Defendants' motion to dismiss for failure to prosecute is **GRANTED** and both

Defendants' motion for summary judgment and Plaintiff's motion for partial summary judgment is **DENIED AS MOOT**.

IT IS SO ORDERED.

Signed this 30th day of January, 2015, in Columbia, South Carolina.

s/ Mary G. Lewis MARY G. LEWIS UNITED STATES DISTRICT JUDGE

***** NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.